

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK



M&T BANK,

Plaintiff,

v.

23-CV-281

BERNADETTE CASPER, DAVID
DALE, and NORTHWEST SAVINGS
BANK,

Defendants.

DECISION AND ORDER

On October 9, 2019, Plaintiff M&T Bank commenced a foreclosure action in Supreme Court, Erie County, following Defendant Casper's default on a note and mortgage secured by real property located at 5121 William Street in Lancaster, New York. *See* Dkt. 11 at 222. Defendants removed the action to this Court on March 29, 2023. Dkt. 1. The Court then referred the case to United States Magistrate Judge Jeremiah J. McCarthy for all proceedings under 28 U.S.C. §§ 636(b)(1)(A), (B), and (C). Dkt. 3.

On April 21, 2023, Plaintiff moved to remand the action to state court. Dkt. 11. Defendants opposed the motion, and Plaintiff replied. Dkt. 12, 13. On May 26, 2023, Judge McCarthy issued a Report and Recommendation ("R&R") recommending that this Court grant Plaintiff's motion. Dkt. 15.

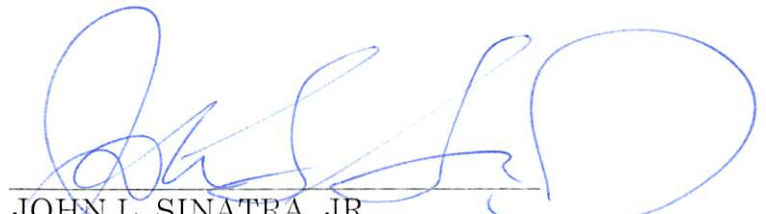
Defendants objected to the R&R, setting forth “factual” objections, “procedural” objections, and “substantive” objections. Dkt. 16. Plaintiff responded to the objections, and Defendants replied. Dkt. 18-19.

A district court may accept, reject, or modify the findings or recommendations of a magistrate judge. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3). A district court must conduct a *de novo* review of those portions of a magistrate judge’s recommendation to which a party objects. *See* 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b)(3).

This Court carefully reviewed the R&R, the objections, and the relevant portions of the record. Based on its *de novo* review, the Court accepts and adopts Judge McCarthy’s recommendation. For the reasons stated above and in the R&R, the Court GRANTS Plaintiff’s motion to remand (Dkt. 11).

SO ORDERED.

Dated: July 12, 2023
Buffalo, New York



JOHN L. SINATRA, JR.
UNITED STATES DISTRICT JUDGE